

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
ERIC SHIBLEY,
Defendant.

NO. MJ 20-385-MLP

MEMORANDUM REGARDING BOND VIOLATION HEARING

The government hereby files the following Memorandum Regarding Bond Violation Hearing, scheduled for Monday, September 28, at 9am. It is alleged that the Defendant Eric Shibley violated the conditions of his release: 1) by committing the crime of assault on or about September 12, 2020; and 2) by committing the crime of assault on or about September 15, 2020.

I. Legal standard applicable to bond violation hearing

Violations of conditions of release are governed by the provisions in 18 U.S.C. § 3148. That section describes the standards of proof for the types of typical bond violations. For the violation alleged here, a new crime, the statute states that the Court may revoke release and order detention if the Court finds “probable cause to believe that

1 the person has committed a Federal, State, or local crime while on release ...” 18 U.S.C.
 2 § 3148(b)(1)(A) (emphasis added).

3 The Rules of Evidence do not apply to bond hearings like this one. *See Fed. R.*
 4 Evid. 1101(d) (evidence rules do not apply when “considering whether to release on bail
 5 or otherwise). Likewise, the Sixth Amendment Confrontation Clause applies to “criminal
 6 prosecutions” and it does not apply to hearings under the Bail Reform Act. *See United*
 7 *States v. Bibbs*, 488 F.Supp.2d 925, 925-26 (N.D. Cal. 2007)

8 **II. Evidence supporting new law violations**

9 At the hearing, the government will present the testimony of Seattle Police
 10 Department Officer Jeremy Montgomery. Officer Montgomery responded to both of the
 11 domestic violence incidents between Mr. Shibley and the victim in this case. The
 12 government will offer exhibits including Officer Montgomery’s police reports and
 13 photographs.

14 **III. Release on conditions or detention**

15 If the Court finds probable cause to believe that Mr. Shibley committed a new
 16 crime and the Court finds that there are no conditions of release that will ensure that he
 17 will not pose a danger to the safety of any other person or the community, Mr. Shibley
 18 should be detained. *See* 18 U.S.C. § 3148(b).

19 The government has multiple concerns about the release of Mr. Shibley. First, to
 20 the government’s knowledge, he does not have a suitable residence, apart from the
 21 victim, that has been cleared with the Probation Office.

22 Second, while Mr. Shibley seeks release under pretrial supervision, he has not
 23 been candid with the Probation Officer about his relationship with the victim. The victim
 24 has been residing at Mr. Shibley’s residence for months and has an intimate relationship
 25 with Mr. Shibley. Still, Mr. Shibley told his Probation Officer that the victim is merely
 26 an acquaintance. *See* Memorandum, Dkt. #15 at 2.

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Third, the record in this case shows that Mr. Shibley is a danger to the victim and he should be detained.

DATED this 25th day of September, 2020.

Respectfully submitted,

BRIAN T. MORAN
United States Attorney

s/ Brian Werner

BRIAN WERNER

Assistant United States Attorney
United States Attorney's Office
700 Stewart Street, Suite 5220
Seattle, Washington 98101
E-mail: brian.werner@usdoj.gov